



W.P.No.27045 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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1. Poorani
2. Eraniappan
3. Maheswary

... Petitioners

-Vs-

1. The Presiding Officer,
Labour Court, Pondicherry.
2. The General Manager,
Hindustan Lever Ltd,
Detergent Division,
Vadamangalam,
Pondicherry.

3. Sunflower

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the Award dated 08.09.2010 in I.D.No.10 of 2003 and quash the same in so far as it holds that the petitioners in the Industrial Dispute were employees of the third respondent herein and in so far as the Industrial Dispute has been dismissed as against the second respondent herein and consequently



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direct the second respondent herein to reinstate the first petitioner in service with continuity of service, full back wages and all consequent and attendant benefits and further direct the second respondent to pay the back wages and other benefits payable to Late.T.Boopathy to the petitioners herein.

For Petitioners : M/s Ramapriya Gopalakrishnan
For Respondents
R1 : Court
R2 : Mr.Shivathanu Mohan
for M/s S.Ramasubramanian and
Associates
R3 : Not ready in notice

ORDER

This Writ Petition has been filed as against the award dated 08.09.2010 in I.D.No.10 of 2003 insofar as it hold that the petitioners in the industrial dispute were employees of the third respondent herein and dismissed the industrial dispute as against the second respondent and directed the third respondent to re-instate the petitioners into service with continuity of service, full back wages and all consequent and attendant benefits.

2. Heard the learned counsel for the petitioners and the learned counsel for the second respondent and perused the materials available on record.



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3. According to the petitioners, they were workers of the second respondent and they were in continuous service from April 1995 to 31.03.2002. They were working as gardeners and their work was supervised by the General Manager of the company and his assistants. Their ESI and PF contributions were remitted by the second respondent management. While being so, on 01.04.2002, to their shock and surprise, they were abruptly not allowed inside the factory and thus, they refused employment. Therefore, they sent a representation to the second respondent management seeking permission to allow them to work. There was no reply and as such they were constrained to initiate industrial dispute.

4. The specific case of the second respondent was that the petitioners were not their employees and at no point of time they were working under the second respondent. They were workers of the third respondent. They never issued any appointment orders to the petitioners and the petitioners also failed to file any document to that effect. The third respondent is one of the contractors and used to deploy their own man which included the petitioners. Ex.P3 also revealed that the third



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respondent maintains the Muster Roll and Payment of Wages Register.

The copies of Muster Roll of the workers with the third respondent for the period June 1996 to March 2002 was also marked as Ex.R3. The copies of Register of Wages of the workers employed with the third respondent for the said period was also marked as Ex.R4.

5. Therefore, the Labour Court had rightly passed the award against the third respondent to re-instate the petitioners immediately and the petitioners are also entitled to claim 30% of the back wages with continuity of their service and other benefits and this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition stands dismissed. No costs.

04.07.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

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Labour Court, Pondicherry.
2. The General Manager,
Hindustan Lever Ltd,
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G.K.ILANTHIRAIYAN, J.

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